

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DOUGLAS HANDSHOE

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PLAINTIFF

v.

Civil No. 1:15CV382-HSO-JCG

VAUGHN PERRET, *et al.*

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DEFENDANTS

ORDER GRANTING IN PART AND DENYING IN PART CHARLES LEARY'S [287] MOTION TO EXTEND DEADLINES AND ALTER DATES AND, IN THE ALTERNATIVE, FOR NOTATION OF DEFAULT, AND CONTINUING PRETRIAL CONFERENCE AND TRIAL DATES

BEFORE THE COURT is Defendant/Counterclaimant Charles Leary's Motion [287] to Extend Deadlines and Alter Dates and, in the Alternative, for Notation of Default. After due consideration of the record and relevant legal authority, the Court will grant in part and deny in part Leary's Motion [287]. This matter will be removed from the Court's October 2018 trial calendar, and the pretrial conference and trial dates will be continued.

Leary has advanced Counterclaims [233] against Plaintiff/Counter-Defendant Douglas Handshoe. On June 6, 2018, Handshoe filed a Motion [244] to Dismiss, which remains pending. This matter is currently set for trial on the Court's October 2018 trial calendar. Leary now asks the Court to postpone trial until after Handshoe files an answer to Leary's Counterclaims. *See* Mot. [287] at 1. Alternatively, Leary argues that Handshoe is in default. *Id.*

In light of various Orders entered by the Court only Leary's Counterclaims against Handshoe remain pending for trial in this case. Given the current

procedural posture of the case, the Court will grant Leary's Motion [287] to the extent he seeks a continuance. The Court will remove this matter from its October 2018 trial calendar and continue the current pretrial conference and trial dates. If any claims remain once the Court resolves Handshoe's pending Motion [244] to Dismiss, after Handshoe files an Answer the Magistrate Judge will enter an abbreviated amended scheduling order.

As for Leary's alternative request for a notation of default, this request will be denied. Handshoe has not failed to plead or otherwise defend, and he is not in default. *See Fed. R. Civ. P. 55.*

IT IS, THEREFORE, ORDERED AND ADJUDGED that, Defendant/Counterclaimant Charles Leary's Motion [287] to Extend Deadlines and Alter Dates and, in the Alternative, for Notation of Default is **GRANTED IN PART**, to the extent it seeks a continuance, **and DENIED IN PART**, to the extent it seeks a notation of default.

IT IS, FURTHER, ORDERED AND ADJUDGED that, the pretrial conference and trial of this matter are **CONTINUED**, and this case is removed from the Court's October 2018 trial calendar. If any claims remain once the Court resolves Handshoe's pending Motion [244] to Dismiss, after Handshoe files an Answer the Magistrate Judge will enter an abbreviated amended scheduling order.

SO ORDERED AND ADJUDGED, this the 14th day of September, 2018.

s/ Halil Suleyman Ozerdem
HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE